Supreme Court, U.S.
FILED
APR 14 2003
OFFICE OF THE CLERK

No. 02-1396

In The
Supreme Court of the United States

NAIDA B. AXFORD, ESQ.,

Petitioner,

vs.

ARIZONA SUPREME COURT, and the STATE BAR OF ARIZONA, and the STATE BAR FOUNDATION,

and

the NINTH CIRCUIT COURT OF APPEALS,

Respondents.

MARK G. SANCHEZ and the PEOPLE OF ARIZONA,

Parties in Interest.

On Petition For Writ Of Certiorari To The Supreme Court Of Arizona

SUPPLEMENTAL BRIEF

NAIDA B. AXFORD, ESQ.
1087 East Minton Drive
Tempe, Arizona 85282
(480) 600-4282
Counsel for Petitioner

QUESTIONS FOR REVIEW

1. WHEN DOES A CLERK OF COURT HAVE JUDICIAL POWER?

2. WHEN JUDICIAL CLERK'S DEPUTIES MAKE A MISTAKE, AND THE ERROR HAS THE EFFECT OF TERMINATING A PROPERTY OR LIBERTY RIGHT, MUST THE COURT OPERATE TO ***IMMEDIATELY*** CORRECT THE ERROR?

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STATUTORY PROVISION INVOLVED

RULE 26. COMPUTING AND EXTENDING TIME

> **(a) Computing Time.** The following rules apply in computing any period of time specified in these rules or in any local rule, court order, or applicable statute . . .
>
> **(c) Additional Time after Service.** When a party is required or permitted to act within a prescribed period after a paper is served on that party, 3 calendar days are added to the prescribed period . . .

Fed.R.App.P. 26(a), (c).

INTERIM UNLAWFUL DISBARMENT BY NINTH CIRCUIT

During the pendency of this action, the Deputy Clerk of Court for the Ninth Circuit Court of Appeals issued an "Order" dated January 8, 2003, purporting to require the filing of "cause" as to why the right to practice in the Federal Court should not be terminated. (Appendix 1, App. 1)

The Rules of Court permitted 28 days plus 3 for the filing of a Response. Rules of Procedure, Ninth Circuit Court of Appeals, Rule 26(a) and (c). A Response was filed during that time. In the interim, however, the Deputy Clerk issued a disbarment order. (Appendix 2, App. 3) The "Order" was issued in error; a timely Response and Request for Hearing had been filed.

Counsel NAIDA B. AXFORD, ESQ. called back the clerk to discuss the error. The Deputy Clerk insisted he

did not have to read the Rule because he "has been doing this for over twenty (20) years." AXFORD asked to have him read the Rule and call her back. After a second conversation, Deputy Clerk Lewis decreed that AXFORD would need to file a "Motion to File Late." AXFORD left a detailed telephonic message urging Deputy Clerk Lewis to reconsider in light of the adversary process, the error he had committed, and her success in prior proceedings against a chief deputy clerk. Deputy Clerk Lewis did not call back, and has issued no further "Order" to correct.

AXFORD is aware of the procedure for corrections due to the error of Deputy Clerk Lewis in the initial Order (the wrong case number). After AXFORD informed the filing desk clerk in San Francisco and the matter had still not been corrected, Deputy Clerk Lewis was asked to issue a formal minute entry, which is found herein. (Appendix 3, App. 4).

MATTER OF EXIGENCY

Interruption of AXFORD's right to practice Federal Appellate law has prevented AXFORD from exercising her profession. Every day which passes is amounting to lost wages, lost opportunity, and a loss of reputation. Immediate remedial and remunerative steps must be taken by the Ninth Circuit Court of Appeals, and AXFORD's license restored without interruption.

CONCLUSION

The wrongful actions of the original RESPONDENTS has now led to further harm, which, like a fire, is spreading.

Respectfully submitted,

NAIDA B. AXFORD, ESQ.
1087 East Minton Drive
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(480) 600-4282
Counsel for Petitioner

APPENDIX 1

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In Re: Naida B. Axford, Esq., Admitted to the Bar of the Ninth Circuit: December 17, 1982 Respondent.	No. 03-80003 ORDER (Filed Jan. 8, 2003)

The court is informed that on October 31, 2002, the Supreme Court of the State of Arizona suspended the respondent from the practice of law. Within 28 days from the entry of this order, respondent shall resign from the bar of this court or shall show cause, in writing, why respondent Naida B. Axford, Esq., should not be suspended or disbarred from the practice of law in this court. *In re Rosenthal, 854 F.2d 1187 (9th Cir. 1988).*

Upon consideration of the response to this order and after a hearing, if requested, the court will determine whether to order respondent suspended or disbarred under Fed. R. App. P. 46(c); Ninth Circuit Rule 46-2.

This order shall be provided to respondent via certified mail at 1087 East Minton Drive, Tempe, Arizona 85282. Failure to respond to this order in a timely fashion will result in disbarrment of respondent without further notice.

FOR THE COURT
CATHY A. CATTERSON
Clerk of Court/Court Executive

By: /s/ Don Lewis
Don Lewis
Deputy Clerk

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APPENDIX 2

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In Re: Naida B. Axford, Esq., Admitted to the Bar of the Ninth Circuit: December 17, 1982 Respondent.	No. 03-80002 ORDER (Filed Feb. 12, 2003)

On January 08, 2003, the court ordered Naida B. Axford, Esq., to voluntarily resign or to show cause, in writing, why he/she should not be suspended or disbarred from the practice of law in this court. Compliance with that order was to have been achieved by February 06, 2003.

To date, respondent has neither submitted his/her resignation nor shown cause why he/she should not be suspended or disbarred from the practice of law before this court. Accordingly, respondent is hereby removed from the roll of attorneys admitted to practice before this court. Fed.R.App.P. 46(c); *In re Rosenthal, 854 F.2d 1187 (9th Cir. 1988).*

FOR THE COURT
CATHY A. CATTERSON
Clerk of Court/Court Executive

By: /s/ Don Lewis
Don Lewis
Deputy Clerk

APPENDIX 3

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In Re: Naida B. Axford, Esq., Admitted to the Bar of the Ninth Circuit: December 17, 1982 Respondent.	No. 03-80002 D.C. No. District of Arizona, Phoenix AMENDED ORDER (Filed Feb. 18, 2003)

The January 8, 2003, Order to Show Cause is amended to reflect the the correct docket number as shown above.

FOR THE COURT
CATHY A. CATTERSON
Clerk of Court/Court Executive

By: /s/ Don Lewis
Don Lewis
Deputy Clerk

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